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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,207	12/07/1999	JEREMY VANDER WOUDE	MPATENT.160A	7416

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EXAMINER

KUMAR, PANKAJ

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 08/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/457,207	WOODE, JEREMY VANDER
Examiner	Art Unit	
Pankaj Kumar	2631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 07 December 1999.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All b) Some \* c) None of:

        1. Certified copies of the priority documents have been received.

        2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

        3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    \* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Simmons et al. USPN 6195414B1.

As per claim 1, Simmons teaches a device (Simmons fig. 1: 100) for testing the operation of a modem (Simmons fig. 1a: 170) in a computer (Simmons fig. 1a: 180), the device comprising: a case (inherent for 100 in fig. 1 of Simmons to be within a case to reduce the effect of temperature, humidity, liquid spilling and other effects of the environment); a first communication port attached to the case (Simmons fig. 1: 150); and a signal reporting circuit (Simmons fig. 8b: 855, teaches outputting sample and thus this is equivalent to reporting the

signal) located within the case (Simmons fig. 3 teaches channel 2 processing transmit direction which is what fig. 8 was discussing and fig. 3 is a DSP 220 which is in fig. 2a which is in 200 and in fig. 1a) and coupled to the first communication port (Simmons fig. 8 is a flow chart of fig. 3 which is coupled to fig. 1's 150 communication port via other links), the signal reporting circuit configured to test the transmit capability of a modem in a computer (fig. 8a "transmit direction process").

As per claim 2, the device of claim 1 further comprising a second communication port (Simmons fig. 1: 10) coupled to the signal reporting circuit (Simmons fig. 8b: 855 teaches outputting sample and thus this is equivalent to reporting the signal; fig. 8 is a flow chart of fig. 3 which is coupled to fig. 1's 10 communication port via other links).

As per claim 3, the device of claim 1 wherein the signal reporting circuit comprises a microprocessor and an analog to digital converter coupled to the microprocessor and the first communication port (Simmons fig. 8 is a flowchart of fig. 3 which is the DSP located in fig. 2a which includes a/d 288).

As per claim 4, the device of claim 1 wherein the signal reporting circuit comprises a microprocessor and a modem (Simmons fig. 1a: 170) coupled to the microprocessor (Simmons fig. 1: 145 couples modem to microprocessors inside 100) and the first communication port (Simmons fig. 1: 150).

As per claim 5, a method of testing the operation of a modem in a computer (Simmons fig. 1a: 165, modem in a computer is a digital transmission source) using a portable (Simmons "line card"; cards are known in the art to be portable) modem testing device (Simmons fig. 1a: 100), the method comprising: coupling the modem in the computer (Simmons fig. 1a: 165) to the portable modem testing device (Simmons fig. 1a: 20 connects to 100); initiating transmission of test data from the modem (Simmons fig. 8); receiving the transmission from the modem at the portable modem testing device (Simmons fig. 7); and verifying the transmission (inherent to verify transmission when testing a modem).

As per claim 6, the method of claim 5, further comprising: coupling the computer to the portable modem testing device via an alternate communication link (Simmons col. 7 last paragraph "... bypass ... digital ... in favor of ... analog ..."; fig. 1, 10 or 20 can be used to connect to 100); and after the portable modem testing device has received the transmission from the modem, transmitting a signal from the portable modem testing device to the computer via the alternate communication link (Simmons fig. 8).

As per claim 7, the method of claim 6, further comprising: sending a signal from the portable modem testing device to the computer via the alternate communication link to initiate testing the operation of the modem in the computer (Simmons fig. 7).

As per claim 8, a method of testing the operation of a modem in a computer (Simmons fig. 1a: 165) using a portable modem testing device (Simmons fig. 1a: 100), the method comprising:

coupling the modem in the computer to the portable modem testing device (Simmons fig. 1a: 20); initiating transmission of test data from the portable modem testing device (Simmons fig. 8); receiving the transmission from the portable modem testing device at the modem (Simmons fig. 7); and verifying the transmission (inherent to verify transmission when testing a modem).

As per claim 9, the method of claim 8, further comprising: coupling the computer to the portable modem testing device via an alternate communication link (Simmons fig. 1: 10); and after the modem has received the transmission from the portable modem testing device, transmitting a signal from the computer to the portable modem testing device via the alternate communication link (Simmons fig. 8).

As per claim 10, the method of claim 9, further comprising: sending a signal from the portable modem testing device to the computer via the alternate communication link to initiate testing the operation of the modem in the computer (Simmons fig. 7).

As per claim 11, a method of testing the operation of a modem in a computer using a portable modem testing device, the method comprising: coupling (Simmons fig. 1a: 20) the modem in the computer (Simmons fig. 1a: 165) to the portable modem testing device (Simmons fig. 1a: 100); initiating transmission of test data from the modem (Simmons fig. 8b: 855, output); receiving the transmission from the modem at the portable modem testing device (Simmons fig. 8a: 805, input); verifying the transmission (inherent to verify transmission when testing a modem); initiating transmission of test data from the portable modem testing device (Simmons fig. 7b:

760, output); receiving the transmission from the portable modem testing device at the modem (Simmons fig. 7a: 705, input); and verifying the transmission (inherent to verify transmission when testing a modem).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.  
6311291B1

In 6195414B1, Simmons references this web site for modem testing:

<http://www.consultronics.on.ca>.

The following site shows modem tester arrangement:

[http://www.consultronics.on.ca/puma\\_4000a\\_series\\_typical\\_setups.htm](http://www.consultronics.on.ca/puma_4000a_series_typical_setups.htm)

Phillips USPN 6307877.

As per claim 1, Phillips teaches a device for testing the operation of a modem in a computer, the device comprising:

a case (Phillips: "Because it is portable, the development kit also allows performance of real-time field tests."; since Phillips is meant to be portable in the field, it inherently must have a case otherwise the electrical components will be affected by the weather);

a first communication port attached to the case (Phillips fig. 7: 538); and

a signal reporting circuit (Phillips fig. 7: 520 with ADC 540 and PMCM 530) located within the case (Phillips: "Because it is portable, the development kit also allows performance of real-time field tests."; since Phillips is meant to be portable in the field, it inherently must have a case

otherwise the electrical components will may affected by the weather) and coupled to the first communication port (Phillips fig. 7: 530 coupled to 538 via bus), the signal reporting circuit configured to test (Phillips fig. 7: "TEST MESSAGES") the transmit capability of a modem in a computer (Phillips fig. 7: 508).

As per claim 2, the device of claim 1 further comprising a second communication port coupled to the signal reporting circuit (Phillips fig. 7: 530 coupled to 536 via bus).

As per claim 3, the device of claim 1 wherein the signal reporting circuit (Phillips fig. 7: 520 with 540 and 530) comprises a microprocessor (Phillips fig. 7: 530) and an analog to digital converter (Phillips fig. 7: 540) coupled to the microprocessor and the first communication port (Phillips: fig. 7: 530 and 540 are coupled to 538 via the bus).

As per claim 4, the device of claim 1 wherein the signal reporting circuit (Phillips fig. 7: 520 with 540 and 530) comprises a microprocessor (Phillips fig. 7: 530) and a modem (Phillips fig. 7: 516) coupled to the microprocessor (Phillips fig. 7: coupled via 542) and the first communication port (Phillips fig. 7: coupled via 542, 540, 530 and bus to 538).

As per claim 5, a method of testing the operation of a modem in a computer using a portable modem testing device (Phillips: "Because it is portable, the development kit also allows performance of real-time field tests."); since Phillips is meant to be portable in the field, it inherently must have a case otherwise the electrical components will may affected by the

weather), the method comprising: coupling the modem in the computer (Phillips fig. 7: 508) to the portable modem testing device (Phillips fig. 7: 502a, 520); initiating transmission of test data from the modem; receiving the transmission from the modem at the portable modem testing device; and verifying the transmission.

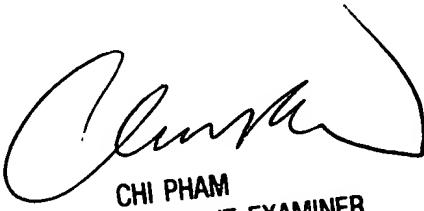
As per claim 5, a method of testing the operation of a modem in a computer (Simmons fig. 1a: "modem under test") using a portable (Simmons "line card"; cards are known in the art to be portable) modem testing device, the method comprising: coupling the modem in the computer to the portable modem testing device (Simmons fig. 1a: modem 170 is attached to computer 180 and 100 which will test the modem); initiating transmission of test data from the modem (Simmons fig. 8); receiving the transmission from the modem at the portable modem testing device (Simmons fig. 7); and verifying the transmission (inherent to verify transmission when testing a modem).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (703) 305-0194. The examiner can normally be reached on Monday through Thursday after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (703) 305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800.

PK  
August 7, 2002

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
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8/12/02